

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department – Bhadrachalam District – Revision Petitions under Land Transfer Regulations 1/59 as amended by Regulation 1/70 – Revision Petition filed by Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju R/o Santosh Nagar, PV Township of Manuguru Mandal, Bhadrachalam District against orders passed by the Additional Agent to Government in CMA No.12/2003, dt.27.10.2007 and orders of the Special Deputy Collector (TW), Bhadrachalam in LTR case No.53/2000/MGR, dt.11.11.2002 for the land admeasuring Acs.6.00 gts in Sy.No.138/1552 situated in Manuguru village and Mandal, Bhadrachalam District – Allowed – Orders –Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.57

**Dated: 28.07.2021,
Read the following:-**

- 1) Revision Petition filed by Sri K.Laxmipathi Raju S/o Venkata Subba Raju R/o Mallaram (V) Manuguru (M) Khammam District dated 26.04.2008.
- 2) Govt.Memo.No.3384/LTR.2/2008, dated 16.05.2008.
- 3) Orders of the Hon'ble High Court in WP.No. 14057 of 2008, dated 02.07.2008
- 4) From the Addl. Agent to Govt. Lr.RP.No.3384/LTR.2/2008 dated 16.03.2009
- 5) Govt.Lr.No.3384/TW.LTR.2/2008, dated 30.08.2013, 12.05.2016,20.07.2016, 17-10-2016, 16.12.2016, 28.01.2017, 15.3.2017, 27.04.2017
- 6) Representation of Sri Laxmipathi Raju dt. 06.11.2017, address to the Hon'ble Chief Minister and endorsement of the Chief Secretary to Govt. there on dt.16.11.2017
- 7) Govt.Memo.No.3384/TW.LTR/2008, dated 16.02.2019, 18.03.2019,04.06.2019.
- 8) Govt.Lr.No.3384/TW.LTR/2008, dated 19.02.2020,21.10.2020,
- 9) Written Arguments filed by counsel SK. Fareed on behalf of the Revision Petitioner on 07.03.2020.
- 10) Orders of the Hon'ble High Court in WP.No. 8317 of 2020, dated 17.06.2020.
- 11) Govt.Notice No. 3384/TW.LTR/2008, dated 21.10.2021
- 12) Written Arguments filed by counsel SK. Fareed on behalf of the Revision Petitioner on 07.11.2020.
- 13) Govt.Notice No. 3384/TW.LTR/2008, dated 11.01.2021
- 14) Govt.Memo No. 3384/TW.LTR/2008, dated 11.01.2021
- 15) Petition filed by counsel SK. Fareed on behalf of the Revision Petitioner on 23.01.2021
- 16) Petition filed by counsel SK. Fareed on behalf of the Revision Petitioner on 03.04.2021
- 17) Show cause notice received from the Deputy Registrar, High Court for the State of Telangana at Hyderabad in Contempt Case No. 861 of 2020 of Dated 28.4.2021, received on 24.05.2021
- 18) Issued Govt. Lr.No. 3384/TW.LTR/2008, dt. 08.06.2021.
- 19) Issued Govt. Notice. 3384/TW.LTR/2008, dt.22.06.2021.
- 20) Issued Govt. Lr.No. 3384/TW.LTR/2008, dt. 27.06.2021.
- 21) Lr.No.CC.No. 861/2020/CVY/SW/HC/20 received from the GP for SW, High Court Buildings, Hyderabad, dated 29.06.2021

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- 22) Issued Govt. Notice. 3384/TW.LTR/2008, dt.02.07.2021 & 09.07.2021
23) Additional Written Arguments filed by counsel SK. Fareed on behalf of the Revision Petitioner on 07.07.2021.

ORDER:

In the reference 1st read above, Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju R/o Manuguru village and Mandal of erstwhile Khammam District (now Bhadrachalam Kothagudem District) has submitted Revision Petition U/s.6 of the LTR 1/59 as amended by Regulation 1/70 before the Government against the orders of the appellate authority i.e. Additional Agent to Government, Bhadrachalam in CMA No.12/2003, dt.27.10.2007 and orders of the Special Deputy Collector (TW), Bhadrachalam in LTR case No.53/2000/MGR, dt.11.11.2002 in respect of the land admeasuring Acs.6.00 gts in Sy.No.138/1552 situated in Manuguru village and Mandal, urging the following the grounds:

- Order of Addl.Agent to Govt. Bhadrachalam, Khammam Dist in CMA No.12/2003, dt.27.11.2007 in confirming orders of ejectment dt.11.11.2002 in LTR case No.53/2000/MGR by SDC (TW), Bhadrachalam, Khammam Dist. is contrary to law, weight of evidence and probabilities of the case.
- The Addl.Agent to Govt. Bhadrachalam failed to notice that no enquiry was conducted by the SDC while passing ejectment order, which is violative of principles of natural justice.
- He is the absolute owner of the schedule property. His father Kakarlapudi Venkata Subba Raju and his brother Kakarlapudi Jagannadha Raju jointly purchased the said land from Buddaraju Suryanarayana Raju on 8.8.1958 in Sy.No.138/1552 to an extent of 6.00 guntas situated in Manuguru village of Manuguru Mandal, Khammam District within the following boundaries:

East: Land of Buddaraju Suryanarayana Raju
West: Land of Malledu Lalaiah
North: Land of Puli Veeraiah
South: Land of Udathani Appaiah

- In the partition between his father and father's brother, schedule property fallen to his father's share. After that, he inherited the property and enjoying the same as legal heir of his father. His name also entered in the revenue records.
- The Addl.Agent to Govt. Bhadrachalam failed to notice that the then Mandal Revenue Officer, Manuguru had issued Pattedar Pass Book and Title Deeds in his favour by validating the sale in the year 1993.
- The observation made by the lower court that the transaction was in violation of provisions of the AP(SA) LTR 1/59. The Addl.Agent to Govt. Bhadrachalam failed to notice that the provisions of Regulation are purely prospective in nature and not affect past transactions of transfers effected between tribals and non-tribals or between non-tribals and non-tribals themselves in the Agency tracts at a time when neither Regulation 1 of 1959 nor Regulation I of 1970 was in

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force. Such past transaction remained untouched by the sweep of the aforesaid subsequently enacted Regulations. As such the purchase made much prior to the Act 1/1959 and is valid one. The transaction is also made between two non-tribals and not between tribal and non-tribal.

- The Addl.Agent to Govt. Bhadrachalam failed to notice that on the report of the Special Deputy Tahsildar, Bhadrachalam dated 29.02.2000 alleged to have initiated case on the observation that he is in possession of the land admeasuring acs.6.00 in Sy.No.138/1552 of Manuguru village, claiming under transfer made by one Buddaraju Suryanarayana Raju against the provisions of Sec.3 (i) of AP (SA) LTR 1/59 and accordingly a LTR case was registered against him and ordered ejectment on 11.11.2002 directing the MRO Manuguru to take possession of the appeal schedule property. In fact no notice was served on him and the order was passed in his absence as such he has no knowledge about the proceedings. He came to know about the order under appeal only on 20.03.2003 when the revenue authorities came to his land for survey. He obtained certified copy of the said order and filed appeal immediately.
- That the Addl. Agent to Govt. Bhadrachalam failed to notice that the Special Deputy Collector without going into the facts and proper enquiry passed the impugned order observing that the transfer of schedule property was made in contravention of the sub-section 1 of section 3 of AP(SA) LTR 1959. The observation made by the lower court that the transaction is in contravention of Regulation 1/59, after commencement of the Regulation, and as such it is null and void, is not correct.
- Hence, prayed to order for stay of all further proceedings in pursuance of the order of the Addl.Agent to Govt. Bhadrachalam in CMA No.12/2003, dt.27.11.2007 in confirming the orders of ejectment dt.11.11.2002 in LTR case No.53/2000/MGR by the Spl.Dy.Collector pending disposal of the above appeal, in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. In the reference 2nd read above, Government while admitting the Revision Petition, has requested the Addl.Agent to Govt. Bhadrachalam, Khammam District to send para-wise remarks and connected case records.

3. In compliance, vide reference 4th read above, the Addl.Agent to Govt. Bhadrachalam has sent record of the CMA No.12/2003 and also submitted following para-wise remarks.

- It is not correct to say that the Additional Agent to Government failed to notice that the 1st respondent not conducted proper enquiry and passed orders. As seen from the lower court order in LTR case No.53/2000 of SDC (TW) Bhadrachalam, sufficient opportunity was given to the parties and after due enquiry passed orders.
- The Revision Petitioner's case is that the schedule land was purchased on 8.8.1958 by Kakarlapudi Venkata Subbaraju and
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Jagannadharaju, but he failed to prove alleged sale before the lower court by filing proper and necessary documents. The burden lies on the non-tribal respondent to prove the alleged sale is valid and it should be recorded in revenue records as owner and possessor of property. As per pahani prior to 1970 their names were recorded in possessor column only.

- The Revenue authorities while issuing Pattedar Pass Books must verify whether the sale transaction has taken prior to the regulation or not? If genuine, then only the sale has to be regularized and the PPB should be issued, but in this case, the authorities without observing the LT Regulations issued PPB as the schedule land is situated in the scheduled area.
- The Revision Petitioner failed to prove the alleged purchase – admittedly the Xerox copy of alleged sale before the Addl. Agent to Govt. is inadmissible and the lower court rightly rejected claim of the Revision Petitioner.
- The only question before the court whether the Revision Petitioner proved his title as per law – the petitioner without filing sufficient proof and valid documents, simply prolonging the matter. The Revision Petitioner must prove that his possession is lawful and not hit by Regulation.

4. As seen from the record of CMA 12/2003, initially LTR case was registered before the lower court i.e. Special Deputy Collector (TW), Bhadrachalam vide case No.53/2000/MGR on the report of Special Deputy Tahsildar (TW), Bhadrachalam dt.29.2.2009 against Sri Buddaraju Suryanarayana Raju (NT) as petitioner and Sri Kakarlapudi Laxmipathi Raju (NT) as Respondent. The SDC (TW) Bhadrachalam had disposed the case on 11.11.2002 against the petitioner herein on the following grounds:

- Respondent failed to submit written reply to the notice given to him.
- Requisite notices intimating date of appearance were issued to both parties.
- Case finally called on 11.11.2002. Both parties found absent.
- In spite of several notices, the respondent failed to appear before the court and not filed any documentary evidence in support of his possession over the suit schedule land. Verified the record.

The Pahani of Manuguru (v) for 1373 & 1383 Faslies (years 1963 & 1973) show the suit land is Govt. land and not assigned to anybody. Thus, it is clear that the non-tribe respondent has no record to produce in his support and came into possession after APSA LTR 1/59 R/W Regulation 1/1970 which came into force w.e.f. 3.2.1970. Moreover, having occupied the land in Agency area, the burden of proof lies on the non-tribe respondent only.

- As per evidence placed before this court, it is proved that transfer of immovable property belonging to the non-tribe was made to non-tribal (petitioner herein) in contravention of sub-section 1 of section 3 as laid down in APSALTR 1/59 R/W Regulation 1/70 after commencement of the said Regulation and as such it is null and void.

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- Accordingly, ordered for ejectment of respondent or whoever is in possession of the immovable property situated in Sy.No.138/1352 admeasuring 6.00 acres in Manuguru (v) of Manuguru Mandal, Khammam District.

5. Aggrieved by the above orders of the Special Deputy Collector (TW), Bhadrachalam, the Revision Petitioner Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju R/o Mallaram (v), Manuguru Mandal, Khammam District had filed Appeal before the Agent to Government at Khammam raising the following grounds – which was numbered as CMA No.5/2003 and taken on file on 7.4.2003.

- On the report of Special Deputy Tahsildar (TW) Bhadrachalam dated 29.02.2000 alleged to have initiated a case on the observation that the appellant herein is in possession of the land admeasuring acs.6.00 in Sy.No.138/1552 of Manuguru village, claiming under transfer made by one Buddaraju Suryanarayana Raju which is against the provisions of Sec.3 (1) of AP(SA) LTR 1/59 and accordingly a LTR case was registered against the appellant and ejectment decree and order in Form-F dated 11.11.2002 was issued directing the respondent No.2 to take possession of the appeal schedule property. In fact no notice was served on the appellant and the order was passed in his absence and that the appellant has no knowledge about the proceedings. The appellant came to the knowledge of the order under appeal only on 20.03.2003 when the revenue authorities came to the appeal schedule property for survey. Immediately he applied for certified copy of the order and preferring this appeal.

The lower court without going into the facts and proper enquiry passed the impugned order observing that the transfer of appeal schedule property was made in contravention of sub-section 1 of section 3 of AP (SA) LTR, 1959. The observation made by the lower court that the transaction is in contravention of Regulation 1/59 after commencement of the Regulation and as such it is null and void is not correct.

- The father of the appellant and his brother by name Kakarlapudi Jagannadha Raju S/o Ramakrishnam Raju jointly purchased the land from Buddaraju Suryanarayana Raju on 8.8.1958 executed on a stamp paper to an extent of acs.6.00 gts in Sy.No.138/1552 for a consideration of Rs.1500/- and since then his and his brother were in peaceful possession and enjoyment over the land paying the land revenue to the Government. In the partition between father of the appellant and his brother, the appeal schedule property fallen to the share of the appellant's father. After that the appellant came into possession as legal heir. The name of the appellant also entered in the pahanies.
- Appellant is the owner and possessor of the appeal schedule property and the respondent No.1 herein (MRO Manuguru) issued ROR Pass Book and Title deed to the appellant by validating the sale in the year 1993. The provisions of

Regulation are purely prospective in nature and not affect past transactions of transfers effected between tribals and non-tribals or between non-tribals themselves in the Agency Tracts at a time when neither Regulation I of 1959 nor Regulation II of 1963 or I of 1970 was in force. Such past transactions remained untouched by the sweep of the aforesaid subsequently enacted Regulations. As such the purchase is made much prior to the Act I of 1959 and is valid one. The transaction is also made between two non tribals and not between tribal and non tribal.

- The lower court had not given any opportunity to prove his case which is against the principles of natural justice. The order was passed in his absence and he came to know only on 20.3.2003 when the revenue officials came to his land for survey. Immediately, he obtained certified copy of the order and filed appeal. From the date of knowledge of passing the order under appeal i.e. 20.03.2003, the appeal is within limitation.
- Hence, prayed to allow the Appeal by setting aside the order passed in LTR case No.53/2002/MNG, dt.11.11.2002 in the interest of justice.

6. Along with the Appeal, the appellant has submitted the following documents.

- Copy of order passed in LTR case No.53/2000/MGR.
 - Photostat copy of sada agreement dt.8.8.1958.
 - Land revenue receipts.
 - Photostat copy of ROR Pass Book and Title Deed.
 - Photostat copy of 13 (B) certificate.
 - As seen from the sada agreement dt.8.8.1958 - it was executed by Sri Buddaraju Suryanarayana Raju in favour of sons of Sri Kakarlapudi Krishnam Raju namely Jagannadharaju for an extent of acs.6.00 situated in Sy.No.138/1552 for a sale consideration of Rs.1500/-.
 - Certified copy of pahani for the year 1963-64 – village: Manuguru, Mandal: Manuguru, District: Khammam – Sy.No.1552 Patta land of 6.00 acres show names of Sri Buddaraju Suryanarayana Raju S/o Buchi Venkatapathi Raju and also name of Sri Kakarlapudi Jagannadharaju in possession.
 - Certified copy of pahani for the year 2001-02 – village: Manuguru, Mandal: Manuguru, District: Khammam – Sy.No.138/1552 – extent 6.00 acres – shows name of Kakarlapudi Laxmipathi Raju both in pattedar and enjoyer columns.
 - Certified copy of pahani for the year 2003-04 – village: Manuguru, Mandal: Manuguru, District: Khammam – Sy.No.138/1552 – extent 6.00 acres – shows name of Kakarlapudi Laxmipathi Raju both in pattedar and enjoyer columns.
 - Pattedar Pass Book bearing No.78306 issued by Mandal Revenue Officer, Manuguru in favour of Sri Kakarlapudi Laxmipathi Raju
- (Contd...7)

S/o Subbaraju (Patta No.231) for an extent of acs.6.00 in Sy.No.138/1552 – in column No.6 shown as purchased – col.no.7 shown as own land.

- Copy of Certificate issued under 13 (B) bearing C.No.99/RoR/1989, dt.24.12.1993 and also 13 (C) issued by the MRO Manuguru regularising the sale through unregistered sale agreement dt.8.8.1958 for the land of 6.00 acres in Sy.No.138/1552 situated in Manuguru village and Mandal from Sri Buddaraju Suryanarayana Raju to Sri Kakarlapudi Jagannadha Raju S/o Ramakrishna Raju on payment of Stamp Duty of Rs.120/- through Challan No.227, dt.8.12.1993 and Registration Fee of Rs.50/- through Challan No.228, dt.8.12.1993 - paid in Sub-Treasury, Burgampahad.

• Cist receipts:

1. 642752 (1979 year) for Sy.No.138/1552 for 6.00 acres – paid Rs.30.01 ps.
2. 498964 (1980, 1981).
3. 742364 for Sy.No.138/1552 for 6.00 acres – paid Rs.30.00.
4. 787123 for Sy.No.138/1552 (dt.3.2.1983) for 6.00 acres – paid Rs.30.00.
5. 484203 (dt.7.4.1984) for Sy.No.138/1552 for 6.00 acres – paid Rs.25.20 ps.
6. 293130 (dt.19.1.1986) for Sy.No.138/1552 for 6.00 acres – paid Rs.22.00.
7. 697008 (dt.8.5.1987) for Sy.No.138/1552 for 6.00 acres – paid Rs.45.00.
8. 152281 for Sy.No.1552 for 6.00 acres – paid Rs.12/- (for 1987-88, 1988-89).
9. 371346 dt.14.2.1992 – for Sy.No.138/1552 – paid Rs.36/-.
10. 065947, dt.14.2.1993 – for Sy.No.138/1552 – paid Rs.6/-.
11. B5211828 – Sy.No.138/1552 – for 6.00 acres – Rs.12/-paid.
12. 9727706, dt.13.5.2001 – Sy.No.138/1552 for 6.00 acres – paid Rs.12.60 ps.
13. 4381514, dt.16.8.2002 – Sy.No.138/1552 for 6.00 acres – paid Rs.420.00.

7. The Agent to Government, Khammam in IA No.20/2003 of CMA 5/2003 passed the following orders on 25.11.2003:

“In pursuance of the Government Orders issued by the Government of Andhra Pradesh, Hyderabad vide G.O.Ms.No.193, (Ser.I) Dept. dated 17.3.2002 and G.O.Ms.No.274, General Administration (Special-A) Department, dated 15.6.2002 and also the instructions communicated by the Director (Tribal Welfare), Andhra Pradesh, Hyderabad vide Lr.No.0923/03/TRI/PR-CELL-LTR, dated 22.10.2003 and also in exercise of powers conferred u/r (11) of Andhra Pradesh Agency Rules, 1924 this case is hereby transferred to the Additional Agent to Government /Project Officer, I.T.D.A., Bhadrachalam for trial and disposal of the same within reasonable time.”

8. The following Written Arguments were filed before the Addl. Agent to Govt., Bhadrachalam on 18.11.2006:

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- He is the absolute owner of the appeal schedule property – his father Kakarlapudi Venkata Subba Raju and his brother Jagannadha Raju jointly purchased the said land from Buddaraju Suryanarayana Raju on 8.8.1958 in Sy.No.138/1522 to an extent of ac.6.00 gts situated at Manuguru village of Manuguru Mandal, Khammam district within the following boundaries -

East : Land of Buddaraju Suryanarayana Raju
West : Land of Malledu Lalaiah
North : Land of Puli Veeraiah
South : Land of Udathani Appaiah

and since then onwards they were in peaceful possession enjoying the same without any interruption. In the partition between his father and his brother, the appeal schedule property fallen to his father's share which he inherited and enjoying. He is in possession of the property as the legal heir of his father. The name of the appellant also entered in the Revenue records. The then Mandal Revenue Officer, Manuguru has issued Pattedar Pass Book and Title Deeds in the year 1993 in his favour by validating the sale.

- The observation made by lower court that the transaction was in violation of provisions of LTR 1/59. The provisions of Regulation are purely prospective in nature and not affect past transaction of transfers effected between tribals and non-tribals or between non-tribals themselves in the Agency tracts at a time when neither Regulation 1 of 1959 nor Regulation II of 1963 or I of 1970 was in force. Such past transaction remained untouched by the sweep of the aforesaid subsequently enacted Regulations. As such the purchase made much prior to the Act 1/1959 is valid one. The transaction is also made between two non tribals but not between tribal and non tribal.
- That on the report of the Special Deputy Tahsildar, Bhadrachalam dated 29.02.2000, LTR case was initiated on the observation that he is in possession of the land admeasuring acs.6.00 in Sy.No.138/1552 of Manuguru village claiming under transfer made by one Buddaraju Suryanarayana Raju, in contravention of the provisions of Sec.3(i) of AP(SA) LTR 1/59 and accordingly ordered ejectment and order in Form-F dated 11.11.2002 directing the MRO Manuguru to take possession of the property. In fact, no notice was served on the appellant and the order was passed in his absence as such he has no knowledge about the proceedings. He came to the knowledge of the order under appeal only on 20-03-2003, when the revenue authorities came to his land for survey. Immediately he applied for certified copy of the order and filed appeal.
- The lower court without going into the facts and proper enquiry passed the impugned order observing that the transfer of appeal schedule property was made in contravention of the sub-section 1 of section 3 of AP (SA) LTR, 1959. The observation made by the lower court that the transaction is in contravention of Regulation 1/59 after commencement of the Regulation and as such it is null and void is not correct. The appellant already enclosed the below mentioned documents.

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List of documents

1. Village Account No.3 for the year 1963-64 issued by the Dy.MRO Manuguru dt.04.11.2004 in favour of appellant family.
 2. Village Account No.3 for the year 2001-2002 issued by the guru in favour of the appellant.
 3. Village Account No.3 for the year 2003-2004 issued by the Dy.MRO Manuguru in favour of the appellant.
 4. Photostat copy of 13 (B) certificate dt.24.12.1993.
 5. ROR Pass Book and Title Deed No.U-78306 in favour of the appellant.
 6. L.R. Receipt No.5211828 for the Fasli year 1405-06 issued by the VAO Manuguru dt.29.03.1997 in favour of the appellant.
 7. L.R. Receipt No.9727706 for the Fasli year 1408-09-10, issued by the V.A.O. Manuguru dt.13.05.2001 in favour of the appellant.
 8. L.R.Receipt No.4381514 for the Fasli year 1411, issued by the V.A.O. Manuguru dt.16.08.2002 in favour of the appellant.
 9. L.R.Receipt No.371346, issued by the VAO Manuguru dt.14.02.1992 in favour of the appellant.
 10. L.R.Receipt No.065947 issued by the VAO Manuguru dt.14.02.1993 in favour of the appellant.
 11. L.R.Receipt No.152281 issued by the VAO Manuguru in favour of the appellant's mother.
 12. L.R.Receipt No.697008 issued by the VAO Manuguru dt.02.05.1987 in favour of the appellant's mother.
 13. L.R.Receipt No.293130 issued by the VAO Manuguru dt.19.01.1986 in favour of the appellant's family.
 14. L.R.Receipt No.787123 issued by the VAO Manuguru dt.03.02.1983 in favour of the appellant's family.
 15. L.R.Receipt No.484203 issued by the VAO Manuguru dt.07.04.1984 in favour of the appellant's family.
 16. L.R.Receipt No.642752 issued by the VAO Manuguru dt.24.01.1979 in favour of the appellant's family.
 17. L.R.Receipt No.742364 issued by the VAO Manuguru dt.24.2.81 in favour of the appellant's family.
 18. L.R.Receipt No.498964 issued by the VAO Manuguru dt.05.05.1981 in favour of the appellant.
- Appellant submitted that all the documents are in his favour and he is absolute owner of the appeal schedule land. The lower court had not given any opportunity to prove his case which is against the principles of natural justice. The order was passed in his absence.
 - Hence, prayed the Appellate Authority to set aside order of SDC (TW) Bhadrachalam in LTR case No.53/2000/MGR, dt.11.11.2002 in the interest of justice.

9. The Addl. Agent to Govt. Bhadrachalam had taken up the Appeal renumbering it as CMA 12/2003 and dismissed it on 27.10.2007 on the following grounds:

- Appellant filed photostat copy of the alleged sale deed dt.8.8.1958 which is not original and as such it is not admissible in evidence.

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- Appellant filed pahani extracts for the years 1963-64, 2001-02 and 2003-04 – as seen from the pahani extract 1963-64 the appellant's family is shown as possessor but not owner.
- Appellant contention is that the schedule land was purchased in the year but he failed to produce the crucial period of pahanies from 1958 – but he produced pahani extracts from 1963-64, 2001-02 and 2003-04 which mean that he is not in possession of suit land to the alleged sale of purchase.
- ROR is procedural law and it is not substantial law.
- Issuing authority must verify whether transaction is hit by Regulation or not as the schedule land is situated in agency area. Therefore, ROR will not confer any rights over the schedule land.
- ROR Pass Book and 13-B certificate will not help to the appellant and they are liable to be cancelled.
- In the result, Appeal dismissed directing the Tahsildar, Manuguru to take over possession of land and distribute same to eligible tribals as per rules in force under cover of panchanama.

10. The Revision Petitioner had filed WP No.14057 of 2008 in the High Court of Judicature, Andhra Pradesh at Hyderabad to declare action of the official Respondents to evict the petitioner from the land to an extent of ac.6.00 in Sy.No.138/1552 of Manuguru, Khammam District in pursuance of the orders passed by the Addl. Agent to Govt. Bhadrachalam, Khammam in CMA No.12/2003, dt.27.10.2007, in confirming the orders of ejectment dt.11.11.2002 in LTR case No.53/2000/MGR by the Spl.Dy.Collector (TW) pending disposal of the Revision Petition No.3384/LTR.2/2008 filed before the Government, as illegal, as high handed and arbitrary action, without jurisdiction, and as such liable to be set aside in the interest of justice and pass other order or orders.

11. In the reference 3rd read above, the Hon'ble High Court disposed the above WP 14057/2008 on 2.7.2008 directing the Government to dispose of the revision as expeditiously as possible and there shall be status quo with regard to possession of the land in question pending disposal of the revision or interlocutory application seeking stay of the order passed by the 2nd respondent (Addl. Agent to Govt. Bhadrachalam), whichever is earlier.

12. In the references 5th & 8th read above Government has called the case for hearing on 12.09.2013, 21.05.2016, 23.07.2016, 26.11.2016, 21.01.2017, 04.03.2017, 22.04.2017, 27.05.2017, 07.03.2020 and 07.11.2020.

13. Petitioner and his Counsel Sri SK. Fareed present on 7.3.2020. The Counsel for petitioner has filed written arguments on 7.3.2020 along with certain documents obtained under RTI from the Tahsildar, Manuguru. The Tahsildar, Manuguru has been called absent. Case has been adjourned to 7.11.2020.

14. In the reference 10th read above, the revision petitioner has filed WP No.8317 of 2020 in the Hon'ble High Court for disposal of his Revision Petition. The Hon'ble High Court while disposing the said WP made the following order on 17.6.2020:

"The present writ petition is filed under Article 226 of the Constitution of India to declare the action of respondent No.1 in not disposing of the Revision Petition No.3384/LTR2/2008, as being illegal, arbitrary and unjust.

2. The present writ petition is taken up for hearing today i.e. 17.06.2020, through Video Conferencing.

3. Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare, appearing for the respondents.

4. Learned counsel for the petitioner submits that, being aggrieved by the order of respondent No.2 in C.M.A.No.12 of 2003, dated 27.03.2007, the petitioner preferred revision before respondent No.1, numbered as Revision Petition No.3384/LTR2/2008. Learned counsel for the petitioner would further submit that the above said revision is pending consideration before respondent No.1 authority since long, and the petitioner has filed his written arguments along with the relied upon documents, on 07.03.2020. Learned counsel for the petitioner would further submit that the petitioner waives his right of audience by way of personal hearing, so as to enable respondent No.1 to dispose of his revision expeditiously, and would pray that a direction may be issued to respondent No.1 to consider and dispose of the above said revision petition on merits, basing on his written arguments, as expeditiously as possible.

5. Learned Government Pleader appearing for the respondent authorities would submit that this Court may direct the authorities to dispose of the revision petition within a time frame, if the same has not already been adjudicated upon.

6. Having regard to the said submission made and considering the fact that the revision petition is pending for more than 12 years, this Court is of the view that a direction can be issued to respondent No.1 to consider and dispose of Revision Petition No.3384/LTR2/2008 on merits, within a time frame by taking into considering the written arguments submitted by the petitioner, more particularly considering the fact that the petitioner has now given up his right of personal hearing in the matter.

7. In view of the above, respondent No.1 is hereby directed to consider and dispose of Revision Petition No.3384/LTR2/2008 on its own merits within a period of three (3) months from the date of receipt of a copy of this order, by considering the written arguments filed and the relied upon documents therein.

8. Subject to the above, the Writ Petition is disposed of. Pending miscellaneous petitions, if any, shall stand close. No order as to costs."

(Contd...12)

15. In the reference 11th read above Government has called the case on 7.11.2020 – both petitioner and his counsel were present. The Tahsildar, Manuguru has been called absent. Case has been adjourned and called on 23.1.2021.

16. In the reference 13th read above Government has called the case on 23.01.2021. Counsel for petitioner has been present. The Tahsildar, Manuguru has attended with record, verified pahani extracts issued from his office under RTI and confirmed correctness of them. Counsel for petitioner has prayed for (2) months time for submission of additional documents and additional written arguments. (2) months time has been granted (in the reference 15th read above). Counsel for petitioner again prayed for (2) more months time on 3.4.2021 as the required documents could not be obtained by his client. Again (2) months time has been granted (in the reference 16th read above).

17. The case has been finally called on 5.7.2021 vide reference 22nd read above, Counsel for petitioner and Revenue Inspector-II Manuguru with VRA Ramanujavaram of Manuguru Mandal deputed by the Tahsildar, Manuguru were present with record. Verified record of Tahsildar, Manuguru with reference to the documentary evidences submitted by the Petitioner obtained under RTI Act which have been earlier confirmed by the Tahsildar, Manuguru on 23.1.2021. As prayed for, (2) days time granted to counsel for petitioner to file additional written arguments. Accordingly, the counsel has filed additional written arguments on 7.7.2021 (in the reference 23rd read above) along with further documentary evidences and settled legal positions in substantiation of the claim of the Revision petitioner.

18. The written arguments filed on 7.3.2020 and additional written arguments filed on 7.7.2021 have been examined and summed up. The contentions of the petitioner are that:

- i) He is the absolute owner of the land admeasuring acs.6.00 in Sy.No.138/1552 situated in Manuguru village and Mandal of erstwhile Khammam District (now Bhadradi Kothagudem District) which was purchased by his father and father's brother Kakarlapudi Jagannadha Raju jointly from its original pattedar Sri Buddaraju Suryanarayana Raju through an agreement of sale dated 8.8.1958 and since then they have been in peaceful possession and enjoyment of the same without any interruption. In the partition between his father and his brother, the petition schedule property has fallen to his father's share and there after he inherited and enjoying.
- ii) The lower court without making proper enquiry and verifying records passed erroneous order on 11.11.2002 in LTR case No.53/2000/MGR on the ground that as per pahanies of Manuguru village for 1373 & 1383 Faslies (1963 & 1973 years), land is Government land and not assigned to anybody and that as per evidence placed before, transfer of immovable property belonging to the non-tribe was made to another non-tribal (petitioner herein) in contravention of sub-section 1 of section 3 as laid down in APSALTR 1/59 R/W 1/70 after commencement of the said Regulation and as such it is null and void. Accordingly, ejectment order was passed for the land lawfully owned by the revision petitioner admeasuring acres 6.00 in Sy.No.138/1552 in Manuguru village and Mandal of erstwhile Khammam District (now Bhadradi Kothagudem District).

(Contd...13)

- iii) He has no knowledge of the order passed by the lower court i.e. SDC (TW) Bhadrachalam in LTR case No.53/2000/MGR, dt.11.11.2002 as it was passed in his absence and he came to know about it only on 20.03.2003 when the revenue authorities came to his land for survey. Immediately he applied for certified copy of the order and filed statutory appeal along with Stay Petition on 1.4.2003 before the Appellate Authority i.e., Agent to Government, Khammam where it was numbered as CMA 5/2003. The said Appeal was subsequently transferred to the court of Addl.Agent to Government, Bhadrachalam on 25.11.2003 where it was re-numbered as CMA 12/2003. The Stay petition was pending before the Agent to Government, Khammam till 24.11.2003 (till the date of transfer to Addl. Agent to Government, Bhadrachalam on 25.11.2003). The Mandal Revenue Officer, Manuguru without giving any notices and without following the procedure prescribed under Rule 7 (4) of the APSA Land Transfer Rules, 1969 issued in GO Ms.No.763, Revenue, 11th August, 1969, taken over possession of the land on 30.9.2003. The Rule 7 (4) of the LTR Rules, 1969 reads as follows:

“Where the Agent or the Agency Divisional Officer or the Officer referred to in sub-rule (2) of Rule 3 has decided that a person in possession should be ejected under sub-section (2) of Section 3 he shall pass a decree and order in Form “F” and such decree and order shall be executed by the officer specified therein in the manner in which any decree of ejectment by a competent Civil Court is executed”

As the stay petition before the Agent to Government, Khammam and the Addl.Agent to Government, Bhadrachalam was pending, he approached the Hon’ble High Court of AP Hyderabad and filed WP No.15980 of 2004 on 7.9.2004 against 1) Addl.Agent to Govt. & PO ITDA Bhadrachalam, Khammam Dist; 2) Special Deputy Collector (TW), Bhadrachalam, Khammam District and 3) Mandal Revenue Officer, Manuguru, Khammam District praying to direct the respondents not to disturb his possession from the land in **Sy.No.138/1352** extent Acs.6.00 situated in Manuguru village, Manuguru Mandal, Khammam District pending disposal of the appeal in CMA No.12/2003 on the file of the Addl. Agent to Government & Project Officer, ITDA, Bhadrachalam. The Hon’ble High Court had disposed the WP on 8.9.2004 making the following order at the stage of admission:

“Against the ejectment order passed by the second respondent in Case No.53/2000/MGR dated 11.11.2002, the petitioner filed an appeal before the Agent to Government, Khammam, along with an application seeking stay of the ejectment order and the same was posted for hearing on 13.6.2003 and adjourned to 04.11.2003. On 25.11.2003, an order was passed by the Agent to Government by transferring the appeal to the Additional Agent to Government/Project Officer, Bhadrachalam – first respondent herein and the same is pending. So far, no orders have been passed on the stay application filed by the petitioner. Therefore, he filed the present writ petition.

Having regard to the fact that the statutory appeal is pending, the petitioner shall not be dispossessed from the suit schedule property.

The writ petition is disposed of and status quo, obtaining as on today, with regard to the possession shall be maintained till the disposal of the appeal before the first respondent. No costs."

- iv) The Mandal Revenue Officer, Manuguru knowingly that the Appeal and Stay Application were pending before the Appellate Authorities i.e. Agent to Government, Khammam and subsequently with the Additional Agent to Government, Bhadrachalam, had taken over possession of the land on 30.9.2003 without following due procedure prescribed under Rule 7 (4) of the APSA LTR Rules, 1969 as submitted above and also reported as assigned to (3) tribals on 23.8.2004 namely 1) Karam Kamamma W/o Venkaiah, 2) Ganneboina Sujatha W/o Srinu and 3) Ganneboina Santhamma W/o Bodaiah of which Smt.G.Sujatha W/o Srinivas is already holding land of 8 acres and 10 guntas in Sy.Nos.363/2/A, 376/EE, 49/54, 49/70 and 138/12/1 in Manuguru and Mallaram Revenue villages. The MRO Manuguru further informed the Project Officer, ITDA Bhadrachalam through his Lr.Rc.No.B/4644/2002, dt.3.11.2004 that the petitioner herein had approached the Hon'ble High Court and obtained orders in WP No.15980 of 2004 wherein the Hon'ble High Court ordered to maintain status quo. The petitioner obtained orders only after completion of assignment process. The MRO Manuguru further stated that the High Court orders were in respect of Sy.No.138/1352 but the survey number mentioned in the SDC (TW) Bhadrachalam Order is 138/1552. Hence, both survey numbers are not one and the same.
- v) He stated that he approached the Mandal Revenue Officer, Manuguru and represented not to dispossess him as the Stay Application was pending with the Appellate Authority but the MRO Manuguru hastily and knowing about filing of the WP 15980 of 2004 by him, issued assignment order dt.23.8.2004 (back-dating) and also shown as possession handed over to the tribals on 23.8.2004 again back-dating the process finding the Hon'ble High Court order dt.8.9.2004. He stated that he had applied for certified copy of the order of the lower court i.e. SDC (TW) in LTR case No.53/2000/MGR, dt.11.11.2002, on 28.3.2002, which was supplied to him by the office on the same day i.e. 28.3.2003 wherein the Survey Number was mentioned as 138/1352 for an area of 6.00 acres in Manuguru village. Thus, there is no mistake on his part as the O/o SDC (TW) Bhadrachalam had itself supplied the said copy with the said survey No.138/1352 which he filed before the Appellate Authority i.e. Agent to Government, Khammam on 1.4.2003 and also before the Hon'ble High Court in WP No.15980/2004 – but the mistake was attributed to him. Further, the Hon'ble High Court also clearly mentioned in its order dated 8.9.2004 in WP No.15980 of 2004 that "Having regard to the fact that the statutory appeal is pending, the petitioner shall not be dispossessed from the suit schedule property". From the chronology, it may be considered to know as to how he has been intentionally put to suffering when his Appeal and Stay Application were pending before the Appellate Authority.

- vi) The Addl.Agent to Government, Bhadrachalam had disposed the Appeal in CMA No.12/2003 on 27.10.2007 on the grounds that suit land is situated in agency area; ROR is procedural law and not confer any rights over the schedule land, the PPB and TD issuing authority must verify whether any transaction is hit by Regulation or not as the schedule land is situated in agency area; issuance of PPB and 13-B certificate will not help and that he failed to submit any documentary evidence in support of his claim.
- vii) He submitted that he has filed original agreement of sale dt.8.8.1958 before the lower court i.e. Special Deputy Collector (TW), Bhadrachalam in LTR case No.53/2000/MGR and also all the relevant documents before the Appellate Authority in support of his claim that he is the absolute owner of the land in Sy.No.138/1552 for an extent of 6 acres in Manuguru village and Mandal, but the appellate authority had neither examined nor taken them into consideration and dismissed the Appeal putting the revision petitioner in heavy loss despite his legitimate ownership supported by valid documentary evidences available even on official record of the revenue authorities.
- viii) He obtained copies of relevant documents i.e. pahanies from the O/o Tahsildar, Manuguru under RTI Act on different spells which amply prove that he is in possession and enjoyment of the land under dispute i.e. Sy.No.138/1552 in the extent of 6.00 acres in Manuguru village right from the year 1958-59 onwards and it was never Government land – copies of which have already been submitted in the written arguments on 7.3.2020 – gist of which is as follows:

1958-59	Buddaraju Suryanarayana Raju pattedar
1961-62	Buddaraju Suryanarayana Raju & Kakarlapudi Jagannadha Raju
1962-63	Buddaraju Suryanarayana Raju
1963-64	Buddaraju Suryanarayana Raju & Kakarlapudi Jagannadha Raju
1964-65	Buddaraju Suryanarayana Raju & Kakarlapudi Jagannadha Raju
1968-69	Buddaraju Suryanarayana Raju & Kakarlapudi Jagannadha Raju
1970-71	Buddaraju Suryanarayana Raju & Kakarlapudi Jagannadha Raju
1976-77	Buddaraju Suraynarayana Raju & Kakarlapudi Jagannadha Raju
1979-80	Buddaraju Suraynarayana Raju & Kakarlapudi Jagannadha Raju
1983-84	Buddaraju Suryanarayana Raju & Kakarlapudi Jagannadha Raju
1985-86	Buddaraju Suryanarayana Raju
1986-87	Buddaraju Suryanarayana Raju & Kakarlapudi Bangaramma
1991-92	Buddaraju Suryanarayana Raju & Kakarlapudi Bangaramma
1995-96	Kakarlapudi Lakshmipathi Raju
1996-97	Kakarlapudi Lakshmipathi Raju

1997-98	Kakarlapudi Lakshmipathi Raju
1998-99	Kakarlapudi Lakshmipathi Raju
2000-01	Kakarlapudi Lakshmipathi Raju
2001-02	Kakarlapudi Lakshmipathi Raju
2002-03	Kakarlapudi Lakshmipathi Raju
2003-04	Kakarlapudi Lakshmipathi Raju

ix) The Mandal Revenue Officer, Manuguru after verifying veracity of the sale agreement dt.8.8.1958 with reference to the official record available in his office particularly the pahanies of years from 1958 onwards as shown above, regularized the sale in accordance with the provisions under Section XII "Regularisation of certain alienations or other transfers" of The AP Rights in Land and Pattedar Pass Books Act, 1971 (Act No.26 of 1971) by collecting requisite stamp duty fee of Rs.120/- through STO challan No.227, dt.8.12.1993 and Registration fee Rs.50/- through STO challan No.228, dt.8.12.1993 as required under Registration Act, 1908 and issued Certificate under 13-B R/W 13-C of the said Act – which is valid as the transaction between Sri Buddaraju Suryanarayana Raju and Kakarlapudi Jagannadha Raju was much prior to the commencement of the Regulation I of 1959 came into force into Telangana State from 1.12.1963 and the amended Regulation I of 1970 w.e.f. 3.2.1970 as also it did not contravene "The AP Scheduled Areas Land Transfer Regulation 1959 (Regulation I of 1959). Accordingly, the Mandal Revenue Officer, Manuguru had issued Pattedar Pass Book and Title Deed to the petitioner which is valid even as on today.

x) The Revision Petitioner also contended that:

a) The transaction in the present case had taken place between two non-tribals viz., Buddaraju Suryanarayana Raju and Kakarlapudi Jagannadha Raju through an agreement of sale dt.8.8.1958 which is much prior to the commencement of the Regulation I of 1959 came into force from 1.12.1963 in Telangana Region and also the Regulation I of 1970 from 3.2.1970. Both the Regulations are prospective in nature; does not affect past transactions even under unregistered sale deeds and the authorities under the Regulation have no power to go into the validity of such transfers. The Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad in Writ Petition No.5684 of 1988 and 15544 of 1989, dated 27.9.1999 between Kola Mahalaxmi and another (Petitioners) vs Agent to Government, Khammam and others (Respondents) held as follows:

"A.P. SCHEDULED AREAS LAND TRANSFER REGULATION, 1959, Regulation 3 (1) – Applicability of –Transfer of lands in scheduled area – Lands situated in Telangana area – Regulation made applicable to the said area from 1.12.1963 – Authorities under the Act not having jurisdiction to pass order in respect of transfers made prior to coming into force of the said Regulation – Even if transfers were made under unregistered sale deeds, authorities under the Regulation have no power to go into the validity of such transfers – That is a matter for consideration by competent Court in appropriate proceedings – Transfers in question made prior to coming into force of the Regulation – Orders

(Contd....17)

passed setting aside the said transfers made by unregistered sale deeds – Illegal and without jurisdiction – Regulation is prospective in nature and does not affect past transactions”

The present case, at any stage, does not fall under contravention of LT Regulation I of 1959 or Regulation I of 1970 as the transfer took place much prior to the Regulations came into force and sale regularized duly issued with Certificate under XIII-B of the Act No.26 of 1971 by the Mandal Revenue Officer, Manuguru after due verification of the records and following due procedure of law prescribed therein.

b) The Full Bench of the Hon’ble High Court in W.P.No.4204 of 1977, WA Nos.64, 68 and 231 of 1979 and AAO No.151 of 1979, dt.21.8.1981 - between Gaddam Narsa Reddy and others (Petitioners) vs. Collector, Adilabad Dist. and others (Respondents) held as follows:

i) A.P. Scheduled Areas Land Transfer Regulations (1 of 1959) (as amended by Regulations 2 of 1963 and 1 of 1970), S.3 –Applicability – S.3(1) is not retrospective in operation – Transfer of land by Tribal to non-tribal prior to commencement of the Regulation – Dispute as to – Cannot be adjudicated by Authorities under S.3(2).

ii) para 27. The provisions of Section 3 (1) (a) seek to nullify transfers made of lands in Scheduled areas null and void unless the transfer is made in favour of a person or a society mentioned therein. If the provisions of Section 3 (1) (a) are to be given retrospective effect, it will take away or affect vested or accrued rights and the provisions of section 3(1)(a) cannot be construed as having retrospective effect in the absence of express enactment or necessary intendment.

para 28. Therefore, either on principle or on authority, the provisions of Section 3 (1) of Regulation I of 1959 as amended by Regulation II of 1963 or Regulation I of 1970 cannot be given retrospective effect so as to affect transfers made prior to the coming into force of the regulation or its amendments by Regulation II of 1963 or Regulation I of 1970.

para 31. (2) Section 3 (1) of the Regulation I of 1959 and its amendments by Regulation II of 1963 and I of 1970 have no retrospective operation and do not affect transfers made prior to the said Regulation or its amendments coming into force and the authorities under Section 3 (2) of the Regulation have no jurisdiction to pass orders in relation to the immovable property covered by such transfers.

para 31. (3) The validity or otherwise of the transfers made prior to S.3(1) or its amendments by Regulation II of 1963 or I of 1970 coming into force, cannot be adjudicated upon
(Contd...18)

under S.3(2) of the Regulation and the same has to be challenged in an appropriate forum constituted for deciding disputes relating to immovable property situated in Scheduled Areas.

para 32. Applying the said conclusions to the facts of the present case, the transfers in P.P.No.4204/77 having been made prior to the coming into force of the Regulation, they do not contravene the provisions of Section 3 (1) and, therefore, the Special Deputy Collector, Tribal Welfare or the District Collector-cum-Agent to the State Government have no jurisdiction to pass orders under S.3(2) of the said Regulation declaring the said transfers as null and void.

- xi) It is further contended that when the claim of the petitioner is found legally valid in the light of the facts submitted above, it is settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall as per the ratio laid down by the Hon'ble Supreme Court in Criminal Appeal Nos.753-755 of 2009 – as follows:

Para 72. It is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact-situation, the legal maxim "*sublato fundamento cadit opus*" meaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case.

Para 73. In *Badrinath vs. State of Tamil Nadu & Others.*, AIR 2000 SC 3243; and *State of Kerala vs. Puthenkavu N.S.S.Karayogam & Anr.*, (2001) 10 SCC 191, this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically **and this principle is applicable to judicial, quasi-judicial and administrative proceedings equally.**

Para 74. Similarly in *Mangal Prasad Tamoli (dead) by Lrs. vs. Narvadeshwar Mishra (dead) by Lrs. & Others.*, (2005) 3 SCC 422, this Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be *non est* and have to be necessarily set aside.

Para 75. In *C. Albert Morris vs. K. Chandrasekaran & Others.*, (2006) 1 SCC 228, this Court held that a right in law exists only and only when it has a lawful origin.

Para 76. Thus, in view of the above, we are of the considered opinion that the orders impugned being a nullity, cannot be sustained. As a consequence, subsequent proceedings/orders/FIR/investigation stand automatically vitiated and are liable to be declared *non est*.

- xii) Therefore, in view of the position explained above, the petitioner prayed the Government to allow the Revision petition duly setting
(Contd....19)

aside orders of the Additional Agent to Government in CMA No.12/2003, dt.27.10.2003 and also orders of the lower court i.e. Special Deputy Collector (Tribal Welfare), Bhadrachalam in LTR case No.53/2000/MGR, dt.11.11.2002 duly restoring possession of the land in Sy.No.138/1552 admeasuring acs.6.00 in Manuguru village and Mandal of Bhadradi Kothagudem District situated within the following boundaries:

East : Land of Buddharaju Suryanarayana Raju and others
West : Land of Malledu Lalaiah and others
North : Land of Puli Veeraiah and others
South: Land of Udathaneni Appaiah and others

19. The original file of lower court i.e. Special Deputy Collector (TW), Bhadrachalam in LTR No.53/2000/MGR is not made available. However, as per record of CMA 12/2003 of the Addl.Agent to Government, Bhadrachalam, the chronology of the case before the lower court and appellate authority is found as follows:

11.11.2002	Lower court i.e. SDC (TW) Bhadrachalam passed ejectment orders in LTR case No.53/2000/MGR.
01.04.2003	Revision Petition filed Appeal before the Agent to Government, Khammam which was numbered as CMA 5/2003 along with IA for grant of Stay.
07.04.2003	Appeal was taken on file by the Agent to Govt. Khammam.
30.09.2003	MRO Manuguru taken over possession of land of 6.00 acres situated in Sy.No.138/1552 of Manuguru village belonging to the Revision Petitioner.
25.11.2003	Agent to Govt. Khammam transferred the Appeal to the court of Addl. Agent to Govt. Bhadrachalam.
04.12.2003	Taken on file by the Addl.Agent to Govt. renumbering it as CMA 12/2003.
20.06.2004	MRO Manuguru issued assignment proceedings in file No.B/4644/2002 to (3) tribals.
23.08.2004	MRO Manuguru handed over possession to (3) tribals i.e. after (2) months of issuing proceeding.
08.09.2004	Revision Petitioner obtained status-quo ordered from Hon'ble High Court in WP No.15980 of 2004.
27.10.2007	Addl.Agent to Govt. Bhadrachalam dismissed the Appeal.

20. Now the points that arise for adjudication before the Government are:

- a) Whether the land under Revision is Government or patta land?
- b) If it is patta land, does it belong to any tribal at any point of time?

(Contd....20)

- c) If it is patta land, whether the transaction between Sri Buddaraju Suryanarayana Raju (non-tribal) and family of Kakarlapudi Laxmipathi Raju took place before commencement of the Regulation I of 1959 (came into force in Telangana Region from 1.12.1963) and its amended Regulation I of 1970 from 3.2.1970 through unregistered sale agreement dt.8.8.1958 is valid or not?
- d) Whether the Pattedar Pass Book and Title Deed issued to the Revision Petitioner by the Mandal Revenue Officer, Manuguru in the year 1993 is valid or not?
- e) Whether the Revision Petitioner is entitled for the relief as prayed for?

For Point (a): As verified from the Pahani of 1958-59 produced by the Tahsildar, Manuguru, Sri Buddaraju Suryanarayana Raju, a non-tribal was pattedar and it is not Government land.

For Point (b): As verified from the record, the patta land belongs to non-tribal Sri Buddaraju Suryanarayana Raju and never held by tribals at any point of time nor it belongs to tribals.

For Point (c): As per copy of agreement of sale dated 8.8.1958 (original said to have been submitted in the lower court i.e. SDC (TW) Bhadrachalam) the transaction took place between two non-tribals i.e. from Sri Buddaraju Suryanarayana Raju to Sri Kakarlapudi Jagannadha Raju is prior to commencement of the Regulation I of 1970 (w.e.f. 3.2.1970), is valid in view of the following evidences/legal positions:

- i) Names of Revision Petitioner and his family members found recorded in the Pahanies before Regulation I of 1959 (came into existence in Telangana Region from 1.12.1963) and also after Regulation I of 1970 came into force w.e.f.3.2.1970. This was also agreed by the Appellate Authority.
- iii) The Full Bench of the Hon'ble High Court in WP No.4204 of 1977 and WA Nos.64, 68 and 231 of 1979 and AAO No.151 of 1979, dt.21.8.1981 held that Section 3 (1) of the Regulation I of 1970 is not retrospective in operation and cannot be adjudicated by the authorities under Section 3 (2) of the Regulation. The summary of the decision is as follows:

Section 3 (1) of the Regulation I of 1959 and its amendments by Regulation II of 1963 and I of 1970 have no retrospective operation and do not affect transfers made prior to the said Regulation or its amendments coming into force and the authorities under Section 3 (2) of the Regulation have no jurisdiction to pass orders in relation to the immovable property covered by such transfers.

The validity or otherwise of the transfers made prior to S.3(1) or its amendments by Regulation II of 1963 or I of 1970 coming into force, cannot be adjudicated upon under S.3(2) of the Regulation and the same has to be challenged in an appropriate forum constituted for deciding disputes relating to immovable property situated in Scheduled Areas.

(Contd...21)

Para 32. Applying the said conclusions to the facts of the present case, the transfers in WP No.4204/77 having been made prior to the coming into force of the Regulation, they do not contravene the provisions of Section 3 (1) and, therefore, the Special Deputy Collector, Tribal Welfare or the District Collector-cum-Agent to the State Government have no jurisdiction to pass orders under S.3(2) of the said Regulation declaring the said transfers as null and void.

- iii) In WP Nos.5684 of 1988 and 15544 of 1989 decided on 27.9.1999 in Kola Mahalaxmi and another vs Agent to Government, Khammam and others, the Hon'ble High Court held that the Regulation made applicable to Telangana area from 1.12.1963 and authorities under the Act not having jurisdiction to pass orders in respect of transfers made prior to coming into force of the said Regulation including the transfers that were made under unregistered sale deeds.
- iv) As per section 17 clause (g) (inserted by A.P.Act 4 of 1999), the agreement of sale of immovable property of the value of one hundred rupees and upwards requires registration w.e.f. 1.4.1999 as also held by the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in Civil Revision Petition No.4066 of 2016, dt.30.11.2016 – operative portion of which is as follows:

“The main and very first requirement of law to file a suit for Specific Performance of an agreement of sale is that there should be a valid agreement of sale in view of A.P.State amendment by incorporation clause (g) to Section 17 (1) of the Registration Act, 1908, with effect from 01.04.1999. As per the said amendment, all agreements of sale of immovable property worth more than Rs.100/- compulsorily be registered”.

- v) In the present case, the transaction is found to have taken place in the year 1958 through an agreement of sale dt.8.8.1958 which is much prior to enactment of Act 4 of 1999 and hence, it does not require registration mandatorily as the said Act came into force from 01.04.1999. Further, the Mandal Revenue Officer, Manuguru after verifying validity of the transaction took place through agreement of sale dt.8.8.1958, collected requisite Stamp Duty and Registration Fee as required under Indian Registration Act, 1908 and issued 13-B Certificate validating the sale between Sri Buddharaju Suryanarayana Raju and Sri Kakarlapudi Jagannadha Raju on 8.8.1958 and also issued PPB and Title Deed under Act No.26 of 1971 following due procedure prescribed therein.

For (d): In view of the conclusions arrived at (c) above, the Pattedar Pass Book and Title Deed issued by the Mandal Revenue Officer, Manuguru, duly validating the sale took place in the year 1958 through agreement of sale dt.8.8.1958 and conferring ownership of land of 6.00 acres in Sy.No.138/1552 situated in Manuguru village and Mandal of

Bhadradi Kothagudem District in favour of the Revision Petitioner Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju, is to be treated as valid and accordingly treated as valid.

For (e): In view of the conclusions arrived-at under (a) to (d) of the para **(20)** and placing reliance in the settled principles of law and ratio laid down by the Hon'ble Supreme Court as stated below, the claim of the Revision Petitioner Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju deserves to be allowed with all consequential effects.

"It is settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall as per the ratio laid down by the Hon'ble Supreme Court in Criminal Appeal Nos.753-755 of 2009:

Para 72. It is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact-situation, the legal maxim "*sublato fundamento cadit opus*" meaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case.

Para 73. In *Badrinath vs. State of Tamil Nadu & Others.*, AIR 2000 SC 3243; and *State of Kerala vs. Puthenkavu N.S.S.Karayogam & Anr.*, (2001) 10 SCC 191, this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically **and this principle is applicable to judicial, quasi-judicial and administrative proceedings equally.**

Para 74. Similarly in *Mangal Prasad Tamoli (dead) by Lrs. vs. Narvadeshwar Mishra (dead) by Lrs. & Others.*, (2005) 3 SCC 422, this Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be *non est* and have to be necessarily set aside.

Para 75. In *C. Albert Morris vs. K. Chandrasekaran & Others.*, (2006) 1 SCC 228, this Court held that a right in law exists only and only when it has a lawful origin.

Para 76. Thus, in view of the above, we are of the considered opinion that the orders impugned being a nullity, cannot be sustained. As a consequence, subsequent proceedings/orders/FIR/investigation stand automatically vitiated and are liable to be declared *non est*."

21. In the present case, the basis of proceeding is gone and therefore, as a consequent all subsequent proceedings/orders are to be declared as *non est*.

22. The information furnished by the Tahsildar, Manuguru on 5.7.2021 with reference to certain record like pahanies, is self-contradicting and found not tallied when verified with the original pahani record produced before Government on 5.7.2021 and also with reference to the copies of pahanies

supplied to the Revision Petitioner under RTI Act by the office e.g. copies of pahanies for the years 1968-69 to 2000-01 are reported as not traceable in the office (except 1996-97 reported as not clearly visible) whereas copies of the said pahanies have been supplied to the Revision Petitioner. The following observations are also noted against the statement of information submitted by the Tahsildar, Manuguru.

Information furnished by Tahsildar, Manuguru	Observation
As per old 1B register Khata numbers upto 343 are available and from then onwards i.e. from 344 pages were torn off.	As seen from copy of 1B issued by the Tahsidlar, Manuguru on 16.10.2017, Sri Kakarlapudi Laxmipathi Raju is shown under Khata No.231 for an extent of 6.00 acres in Sy.No.138/1552 in Manuguru village.
As per Old Map – Sy.No.138 (Gut No.) entire land is Government land.	Old Map or its copy not submitted. Further, there are many bi-numbers under Sy.No.138 having patta lands in which Sri Buddaraju Suryanarayana Raju is having patta land of 6.00 acres in Sy.No.138/1552 – as seen from the original pahani of 1958-59 of Manuguru village produced on hearing on 5.7.2021.
Sub-Division done by AD (S&LRs) Khammam on 2.8.2005 – 138/22, 138/23, 138/24.	Copy of Sub-Division done by AD S&LRs Khammam is not submitted. Moreover, as per information furnished under RTI by the Tahsildar, Manuguru, the following information was furnished vide Memo.Rc.No.G/735/2018, dt.10.09.2018: <ul style="list-style-type: none"> - Survey Number 138/1552 is having an extent of 6.00 acres only. - Sub-division was not done from 1958 to 2018. - However, as per record of 2015-16, Sy.No.138/22 consisting of 1.27 acres, Sy.No.138/23 consisting of 1.19 acres is patta land of one Kursam Lakshmaiah and Sy.No.138/24 consisting of 5.00 acres is the patta land of Kursam Sammaiah.
Sethwar – Sy.No.138 – Sarkari (copy enclosed)	No such copy is enclosed. However, Sethwar was in force till 1953 only and thereafter Khasra pahani came into effect from 1954 onwards. As per the pahani record of 1958 i.e. after the Khasra, name of non-tribal i.e. Sri Buddaraju Suryanarayana Raju found as pattedar for the Sy.No.138/1552 and subsequently in the name of Kakarlapudi Jagannadha Raju, Kakarlapudi Bangaramma and now the Revision Petitioner Sri Kakarlapudi Laxmipathi Raju.

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23. Therefore, the Government after careful examination of the case with reference to the contentions of the Revision Petitioner supported by documentary evidences produced by him, due verification of record of the Tahsildar, Manuguru, legalities and also placing reliance in the settled legal positions of the Hon'ble Apex Court, hereby Allow the Revision Petition filed by Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju R/o Manuguru R/o Santosh Nagar, PV Township of Manuguru Mandal, Bhadradi Kothagudem District in respect of the land admeasuring 6.00 acres in Sy.No.138/1552 situated in Manuguru village and Mandal of Bhadradi Kothagudem District (erstwhile Khammam District) within the boundaries – East: Land of Buddharaju Suryanarayana Raju & others, West: Land of Malledu Lalaiah & others, North: Land of Puli Veeraiah & others, South: Land of Udathaneni Appaiah & others; duly setting aside orders of the appellate authority i.e. Addl.Agent to Govt. Bhadrachalam in CMA No.12/2003, dt.27.10.2007 and also orders of the Special Deputy Collector (TW), Bhadrachalam in LTR Case No.53/2000/MGR, dt.11.11.2002.

24. The Respondents in the Revision Petition i.e the Addl.Agent to Govt. Bhadrachalam, the Special Deputy Collector (TW), Bhadrachalam and the Tahsildar, Manuguru Mandal, Bhadradi Kothagudem District shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**Dr. CHRISTINA Z.CHONGTHU
SECRETARY TO GOVERNMENT**

To

1. Sri Kakarlapudi Laxmipathi Raju S/o Venkata Subba Raju
R/o Santosh Nagar, PV Township, Manuguru, Manuguru Mandal,
Bhadradi Kothagudem District (Revision Petitioner)
2. The Additional Agent to Government & Project Officer, ITDA
Bhadrachalam, Bhadradi Kothagudem District
3. The Special Deputy Collector (TW), Bhadrachalam Bhadradi
Kothagudem District.
4. The Tahsildar, Manuguru Mandal, Bhadradi Kothagudem District.

Copies to:

1. The District Collector, Bhadradi Kothagudem District.
2. Sri SK. Fareed, Advocate, 16-1-24/D/10, Farah Colony,
Saidabad, Hyderabad - 500 059. (Counsel for Revision Petitioner)
3. The Government Pleader for Social Welfare, State of Telangana
High Court Buildings, Hyderabad.
4. The PS to Hon'ble Minister for ST Welfare, W&CW.
5. The PS to Secretary (TW)
5. The PS to Special Secretary(TW)
6. SF/SC

//FORWARDED :: BY ORDER//

SECTION OFFICER